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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/773,750	02/02/2001	Yasuki Fujiwara	TPP 31367	6910

7590

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EXAMINER

CHOI, LING SIU

ART UNIT

PAPER NUMBER

1713

DATE MAILED: 06/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/773,750

Applicant(s)

FUJIWARA ET AL.

Examiner

Ling-Siu Choi

Art Unit

1713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on 16 April 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 23 and 24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. This Office Action is in response to the Office Action filed April 16, 2004. Claims 23-24 were canceled and claims 1-22 are now pending. In view of the Amendment, claim objections are moved. Claim rejection of 1-22 are sustained.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

**A person shall be entitled to a patent unless --**

**(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.**

**(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.**

3. Claims [1-3, 6-9, 19-20] and [10-12, 15-18, 21-22] are rejected under 35 U.S.C. 102(e) being anticipated by Satoh et al. (US 6,187,883 B1).

The present invention relates to a process to prepare a solid catalyst component (1) for  $\alpha$ -olefin polymerization, the process comprising the steps of

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1	<b>Reduced</b> $R^2[(O-Ti(X^2)_2)_aX^2]$ (a = 1 to 20)	with an organomagnesium compound in the presence of an organosilicon compound (Si-O) to obtain a solid product
2	contacting the solid product with	halogeno compound of the Group 14 element
		at least one [electron donor compound (E1) and organic acid halide]
		compound having Ti-halogen bond to obtain the solid catalyst component

(summary of claim 1)

The rejection is adequately set forth on paragraph 8 of the previous Office Action and is incorporated herein by reference.

4. Claims [1-3, 6-9, 19-20] and [10-12, 15-18, 21-22] are rejected under 35 U.S.C. 102(b) as being anticipated by Satoh et al. (JP 10-212319 A).

The rejection is adequately set forth on paragraph 9 of the previous Office Action and is incorporated herein by reference.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

**(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.**

6. Claims [4-5] and [13-14] are rejected under 35 U.S.C. 103(a) as being unpatentable over Satoh et al. (US 6,187,883 B1) or Sato et al. (JP 10-212319 A).

The rejection is adequately set forth on paragraph 11 of the previous Office Action and is incorporated herein by reference.

### ***Response to Applicants' Argument***

7. Applicants' arguments filed on April 16, 2004 have been fully considered but they are not persuasive.

Referring to the focal argument "the halogeno compound used in steps (I) and (iii) of the process of the '883 patent is titanium tetrahalide which is clearly different from the claimed halogeno compound of a Group 14 element (i.e., non-titanium elements) as specified in each of the claims undergoing examination." Attention is directed to the paragraph 8 of the previous Office Action, wherein "Satoh et al. further disclose that halogenated hydrocarbon such as dichloroethane or trichloroethylene is preferably used as solvent for mixtures (a) or (b) (col. 8, lines 54-67)", which reads on a halogeno compound of a Group 14 element. Thus, the rejection of claims 1-22 are sustained.

### ***Conclusion***


8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ling-Siu Choi whose telephone number is 571-272-1098.

If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu, can be reach on 571-272-1114.



Ling -Siu Choi

June 10, 2004